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SUBJECT: CANADA SEEKS TO AMEND MONEY LAUNDERING,
ANTI-TERRORISM FINANCING LEGISLATION; UNDERTAKES OTHER
INITIATIVES

11. (U) Summary: The Harper Government has introduced a bill (C-25) in Parliament to amend the Proceeds of Crime (Money Laundering) and Terrorist Financing Act to ensure Canada's global leadership in combating organized crime and terrorist financing. In his introduction of the bill on October 5, Finance Minister Flaherty said that "Canada's New Government will continue to be relentless in its battle against money laundering and terrorism financing," adding that "One of the best ways of putting these criminals out of business is to starve them of the funds they need to finance their activities. Our proposed amendments will improve our ability to act decisively." C-25 will make Canada's anti-money laundering and anti-terrorist financing regime consistent with new Financial Action Task Force (FATF) standards. They include enhancing information sharing between the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), law enforcement and other domestic and international agencies; creating a registration regime for money service businesses; enabling legislation for enhanced client identification measures; and creating an administrative and monetary penalties regime to better enforce compliance with the act. C-25 was debated in the House of Commons last week and the Standing Committee on Finance held hearings on October 31. Minister Flaherty expects the legislation to pass Parliament by the end of the year. End summary.

12. (U) Since criminals constantly change their tactics and find new ways to evade the law, Canada's anti-money laundering and anti-terrorist financing regime must stay up-to-date. The amendments to the 2001 Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMTFA) contained in C-25 are designed to ensure Canada's regime remains consistent with revised international standards while addressing areas of domestic risk. The new legislation will provide appropriate tools to law enforcement and meet international standards, while respecting the personal privacy of Canadians and minimizing the compliance burden on financial intermediaries. C-25 proposes to enhance the provisions of the PCMTFA by strengthening "know your client" standards; closing gaps in the regime; increasing compliance, monitoring and enforcement; and strengthening FINTRAC's intelligence function.

13. (U) In preparation for the legislation, the Department of Finance issued a consultation paper entitled Enhancing Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime in June 2005. Over 50 submissions from stakeholders were received, followed by further face-to-face consultations. As a result, C-25 addresses industry concerns and minimizes the compliance burden by tailoring, where at all possible, proposed new requirements to existing business practices. The legislation also serves to meet Canada's

international commitments to combat money laundering and terrorist financing while ensuring that its domestic regime remains robust and up-to-date.

Description of C-25

14. (U) The key provisions of C-25 are:

a) Enhanced client identification and record-keeping for financial institutions and intermediaries

The amendments include requirements for reporting entities to undertake enhanced monitoring of high-risk situations, correspondent banking relationships and transactions by politically exposed persons. Banks, insurance companies, securities dealers and money service businesses would be required to take measures to identify and monitor the transactions of foreign nationals and their immediate family who hold prominent public positions.

b) Reporting attempted suspicious transactions

All reporting entities currently reporting suspicious transactions would be required to report suspicious attempted transactions to FINTRAC, in line with the practice in other G7 countries and consistent with FATF Recommendations.

c) Registration regime for money service businesses (MSBs) and foreign exchange dealers

The amendments would create a federal registration system for individuals and entities engaged in money service businesses or foreign exchange. FINTRAC would act as registrar and would maintain a public list of registered MSBs and foreign

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exchange dealers. These businesses are already covered by the PCMLTFA; however, given that this is an unregulated sector, the registry will assist FINTRAC in ensuring compliance with the Act.

d) Enhancing the information contained in FINTRAC disclosures

As recommended in the 2004 Auditor General's Report and at the behest of law enforcement, the amendments enhance the information FINTRAC can disclose to law enforcement and security agencies on suspicions of money laundering or terrorist financing. This will increase the value of FINTRAC disclosures, ultimately leading to more investigations and eventual prosecutions.

e) Creating an administrative and monetary penalties regime

Currently the Act only allows for serious criminal penalties if it is contravened. FINTRAC requires the ability to levy fines to deal with lesser contraventions in order to take a more balanced and gradual approach to compliance. The amendments will create an administrative and monetary penalties system, whereby fines can be applied for non-compliance.

f) Reintroducing requirements for legal counsel

The GOC is working with the legal profession, including notaries in Quebec, to finalize requirements for client identification, record-keeping and internal compliance procedures for legal counsel when they act as financial intermediaries.

The new bill removes the obligation for legal counsel to file suspicious transaction reports or other prescribed transaction reports.

g) Expanding information sharing between federal departments

and agencies

Amendments would expand FINTRAC's ability to share information with the Canada Border Services Agency (CBSA), the Canada Revenue Agency and the Communications Security Establishment. In addition, FINTRAC will now be able to receive terrorist property reports under United Nations Act regulations.

Internationally, the enforcement of the anti-money laundering and anti-terrorist financing requirements would be strengthened by information-sharing provisions on compliance-related information between FINTRAC and its foreign counterparts on obligations applicable to the financial sector, and between the CBSA and its foreign counterparts on the enforcement of the cross-border currency reporting regime.

h) Technical Amendments to improve the Act

A number of technical amendments would improve the Act by addressing inconsistencies between the French and the English versions and ensuring consistency between the PCMLTFA and related provisions in other acts, and to clarify existing provisions and correct section references. These amendments will help make the Act easier to read and interpret.

Other GOC Initiatives

15. (U) In addition to the proposed legislation, the Harper Government has undertaken other initiatives to bolster its efforts to combat money laundering and terrorist financing. In its first budget in May, the Harper Government announced C\$64 million in additional funding over the next two years for FINTRAC, the RCMP and the Department of Justice. The funding would:

- increase the number of RCMP officers working in the anti-terrorist financing and anti-money laundering units;
- increase the capabilities of the Canada Border Services Agency (CBSA) to detect unreported currency at airports and border crossings;
- enable Canada's Justice Department to handle the expanding legal workload that will result from increasing the legal workload that will result from increasing the enforcement resources of other government agencies;
- ensure that FINTRAC can better analyze transactions reports and monitor the compliance of the unregulated financial sectors such as money remitters.

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16. (U) Canada is setting up its involvement in regional bodies such as the Asia/Pacific Group on Money Laundering and the Caribbean Financial Action Task Force. Increased GOC funding will help the Eastern Caribbean Central Bank improve its money laundering and terrorist financing system, and to provide on-the-ground training to improve the effectiveness of regulation throughout the Caribbean and Asia/Pacific Regions. Canada will also contribute resources to help the Asia/Pacific Group in the delivery of technical assistance and training within that region.

17. (U) In July, Minister Flaherty announced that Toronto has been selected as the permanent headquarters of the secretariat of the Egmont Group, an organization of the

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world's financial intelligence units, including FINTRAC. The Harper Government will contribute C\$5 million over the next five years to help the secretariat get established. For the first time ever, Canada has assumed the FATF Presidency, the international body that develops and promotes policies to combat money laundering and terrorist financing.

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